

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 57th LEGISLATURE - REGULAR SESSION COMMITTEE ON JUDICIARY

Call to Order: By **CHAIRMAN JIM SHOCKLEY**, on March 13, 2001 at 9:00 A.M., in Room 137 Capitol.

ROLL CALL

Members Present:

Rep. Jim Shockley, Chairman (R)
Rep. Paul Clark, Vice Chairman (D)
Rep. Jeff Laszloffy, Vice Chairman (R)
Rep. Darrel Adams (R)
Rep. Gilda Clancy (R)
Rep. Aubyn A. Curtiss (R)
Rep. Bill Eggers (D)
Rep. Steven Gallus (D)
Rep. Gail Gutsche (D)
Rep. Christopher Harris (D)
Rep. Linda Holden (R)
Rep. Joan Hurdle (D)
Rep. Jeff Mangan (D)
Rep. Brad Newman (D)
Rep. Mark Noennig (R)
Rep. Ken Peterson (R)
Rep. Diane Rice (R)
Rep. Bill Thomas (R)
Rep. Merlin Wolery (R)
Rep. Cindy Younkin (R)

Members Excused: None.

Members Absent: None.

Staff Present: John MacMaster, Legislative Branch
Mary Lou Schmitz, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: **SB 489 - 3-06-01**
SB 487 - 3-06-01

HEARING ON SB 489

Sponsor: Senator Lorents Grosfield, SD 13, Big Timber said this Bill deals with DUI and advising the penalties for felony DUI which means 4th or subsequent offense. In 1995 the legislature first passed the felony DUI making the 4th offense a felony and providing for some prison time. Since that time some of the penalties have been adjusted by the legislature and this is a Bill that will do more. This Bill will establish a new or different program than is handled now. The program is an intensive residential alcohol treatment program trying to further reduce recidivism and this Bill would establish that treatment program.

{Tape : 1; Side : A; Approx. Time Counter : 0 - 18}

Proponents: Bill Slaughter, Director, Department of Corrections.

Norma Jean Boles, Health Services Manager,
Department of Corrections **EXHIBIT**(juh57a01) **EXHIBIT**(juh57a02)

{Tape : 1; Side : A; Approx. Time Counter : 18 - 29.9}

{Tape : 1; Side : B; Approx. Time Counter : 0.1 - 1.3}

J. D. Lynch, Southwest Montana Rehabilitation Center,
Inc.

Betty Whiting, Montana Association of Churches,
Billings

Jim Smith, Sheriff's and Peace Officer's Association

Opponents: Senator Chris Christiaens, SD 23, Great Falls spoke as a proponent but was considered an opponent by the Chairman.

Marty Lambert, Gallatin County Attorney
EXHIBIT(juh57a03) **EXHIBIT**(juh57a04)

Mike Grayson, County Attorney, Anaconda-Deer Lodge
County.

William Muhs, MADD, Gallatin County

Christopher Miller, County Attorney, Deer Lodge

{Tape : 1; Side : B; Approx. Time Counter : 1.3 - 29.8}

{Tape : 2; Side : A; Approx. Time Counter : 0.1 - 3.4}

Candace Payne, Rimrock Foundation **EXHIBIT**(juh57a05)

George Corn, Ravalli County Attorney

Ed Zink, Yellowstone County Attorney

{Tape : 2; Side : A; Approx. Time Counter : 3.4 - 16.9}

Questions from Committee Members and Responses: Reps. Gallus, Newman, to Senator Grosfield and Mr. Lynch.

{Tape : 2; Side : A; Approx. Time Counter : 16.9 - 30.1}

{Tape : 2; Side : B; Approx. Time Counter : 0.1 - 1.4}

Further Questions: Reps. Younkin, Gallus, Rice, Hurdle, Mangan, Harris, Clark, Peterson, Curtiss, Noennig, Shockley to Mr. Lambert, Mr. Slaughter, Senator Grosfield, Ms. Boles, Mr. Zink, Ms. Payne. Becky Buska, Budget Bureau Chief, Department of Corrections, for clarification.

{Tape : 2; Side : B; Approx. Time Counter : 1.4 - 30.1}

{Tape : 3; Side : A; Approx. Time Counter : 0.1 - 29.9}

{Tape : 3; Side : B; Approx. Time Counter : 0.1 - 12.8}

Closing by Sponsor: Senator Grosfield closed the Hearing on SB 489 stating this Bill only deals with alcohol, with DUIs and does not deal with drugs and drug addiction. The average sentence is 13.8 months and the average time in prison is 9.4 months. That is 6 months in treatment. In Montana State Prison the ratio between staff and prisoners is approximately one staff for four prisoners. The ratio in the Xanthopoulos Building, projected, is about one for ten so that is a big cost difference. There would be technicians instead of having to train guards, which would be a lighter level of training. Currently the average time in prison is 9.4 months at \$58 or \$59 a day versus six months at \$45 a day. That is a very significant part of the cost differential.

{Tape : 3; Side : B; Approx. Time Counter : 12.8 - 23.8}

HEARING ON SB 487

Sponsor: Senator Mike Halligan, SD 34, Missoula **EXHIBIT**(juh57a06) **EXHIBIT**(juh57a07) said this Bill codifies those guidelines as described in EXHIBIT 6. It's already being followed and is in

case law, but he wants to make sure that the district court judges know exactly what they are supposed to look at with respect to children testifying in court. The rules of evidence deal with hearsay, an out of court statement made by someone offered for the proof of the truth asserted. Most of the hearsay exceptions, and even the rules of evidence, were largely constructed based on adults' testimony. As the courts gradually got into accepting children as potential individuals who would testify in court, the court began to adapt the rules in haphazard fashion because children do not testify fully and because young children cannot recite events in the way adults can.

{Tape : 3; Side : B; Approx. Time Counter : 23.8 - 28.7}

{Tape : 4; Side : A; Approx. Time Counter : 0.1 - 4.4}

Proponents: John Connor, Attorney General's office, Department of Justice and on behalf of the County Attorneys' Association. Mr. Connor said from the prosecutor's perspective, it is a better idea to have delineated parameters as in this Bill than just leave it up to case law and hope that the prosecutor guesses at the correct way to approach the problem. It's the law now but it's the law because of case law generally.

Ann Gilkey, Supreme Court Assessment Program.

Opponents: None

Questions from Committee Members and Responses: Reps. Laszloffy, Noennig, Peterson, Rice, Harris, Shockley to Senator Halligan and Mr. Connor for further clarification.

{Tape : 4; Side : A; Approx. Time Counter : 4.4 - 29.9}

Closing by Sponsor: Senator Halligan closed the Hearing on SB 487.

{Tape : 4; Side : B; Approx. Time Counter : 0.1 - 2.5}

ADJOURNMENT

Adjournment: 12:30 P.M.

REP. JIM SHOCKLEY, Chairman

MARY LOU SCHMITZ, Secretary

JS/MS

EXHIBIT (juh57aad)